

IN THE CIRCUIT COURT OF THE 9TH
JUDICIAL CIRCUIT IN AND FOR
ORANGE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO.

SHARRIF K. FLOYD,

Plaintiff,

vs.

DR. JAMES ANDREWS, M.D.; DR. GREGORY
HICKMAN, M.D.; DR. CHRISTOPHER WARRELL,
M.D.; DR. TARIQ HENDAWI, M.D; THE ANDREWS
INSTITUTE AMBULATORY SURGERY CENTER,
LLC; PARADIGM ANESTHESIA, P.A.; BAPTIST
HOSPITAL, INC.; BAPTIST HEALTH CARE
CORPORATION; GULF BREEZE HOSPITAL, INC.,
BAPTIST HOSPITAL, INC. d/b/a GULF BREEZE
HOSPITAL; AND BAPTIST PHYSICIAN GROUP, LLC,

Defendants.

PLAINTIFF'S COMPLAINT FOR DAMAGES

Plaintiff Sharrif K. Floyd ("Floyd" or "Plaintiff") brings this medical malpractice action for damages and lost earnings in excess of One Hundred Eighty Million dollars (\$180,000,000.00) against the following Defendants: Dr. James Andrews, M.D.; Dr. Gregory Hickman, M.D.; Dr. Christopher Warrell, M.D.; Dr. Tariq Hendawi, M.D.; The Andrews Institute Ambulatory Surgery Center, LLC (ASC); Paradigm Anesthesia, P.A. (PA); Baptist Hospital, Inc. (BHI).; Baptist Health Care Corporation (BHCC); Baptist Hospital, Inc. d/b/a Gulf Breeze Hospital; and Baptist Physician Group, LLC (BPG). Plaintiff alleges the following:

JURISDICTION, VENUE, AND IDENTIFICATION OF THE PARTIES

1. This is an action for damages in excess \$15,000, exclusive of interest and costs.

2. Venue is proper pursuant to Fla. Stat. § 47.021, because one of the Defendants either resides or maintains a principal place of business in Orange County, Florida, within the jurisdiction of this Court.

3. Plaintiff Sharrif K. Floyd is a citizen of Pennsylvania who received medical treatment from the Defendants in Florida.

4. Defendant Dr. James Andrews, M.D. is a physician specializing in orthopedic surgery, and practicing medicine at ASC, on the Gulf Breeze Hospital campus of BHI located at 1040 Gulf Breeze Parkway, Suite 203 Suite 100, Gulf Breeze, Florida 32561, where he also serves as a Medical Director. Dr. Andrews at all times material, and as set forth in full separately below, was an employee, officer, director, shareholder, agent and/or joint-venturer, of/with/through BHCC, ASC, BPG, BHI, and Dr. Hickman (in Dr. Hickman's officer and/or director and/or shareholder or and/or joint-venturer capacity.) Dr. Andrews, by and through all capacities, performed medical care on the Plaintiff, Mr. Floyd.

5. Defendant Andrews Institute Ambulatory Surgery Center, LLC, ("ASC") is a Florida Limited Liability Company, with a principal office on the Gulf Breeze Hospital campus of BHI, located at 1040 Gulf Breeze Parkway, Suite 203 Suite 100, Gulf Breeze, Florida 32561. By its own terms, ASC is a joint venture between BHCC, BHI and various physicians, which, upon information and belief, include but are not limited to named Defendants Andrews and Hickman. Moreover, Defendant ASC, directly and/or through and/or on behalf of its joint-venturers and/or agents and/or officers and/or employees, BHCC, BHI, BPG, Paradigm Anesthesia, P.A., Dr. Andrews, and Dr. Hickman performed medical care on the Plaintiff, Mr. Floyd. This is set forth in full below.

6. Defendant Christopher Warrell, M.D. is a physician currently residing and practicing in Orange County, Florida. At all times material, Dr. Warrell was a surgical fellow in training,

directly employed by BPG, and under the direction and supervision of Defendants ASC, BHCC, BHI, and Dr. Andrews both directly and as an agent and/or employee and/or joint-venturer of Defendants ASC, BHCC and BHI, and Dr. Hickman (in his joint-venturer capacity through ASC), providing surgical services to patients of ASC including the Plaintiff, Mr. Floyd, at the BHI Gulf Breeze Hospital Campus. This is set forth in full below.

7. Defendant Tariq Hendawi, M.D is a physician currently residing and practicing in Texas. At all times relevant to this action, Dr. Hendawi was a surgical fellow in training, was employed by BPG, working under the direction and supervision of Defendants ASC, BHCC, BHI, and Dr. Andrews both directly and as an agent and/or employee and/or joint-venturer of Defendants ASC, BHCC and BHI, and Dr. Hickman (in his joint-venturer capacity, through ASC), providing surgical services to patients of ASC at the BHI Gulf Breeze Hospital Campus, including the Plaintiff, Mr. Floyd. This is set forth in full below.

8. As set forth in full below, Defendants, Drs. Warrell and Hendawi were, at all times material, surgical fellows providing care to the Plaintiff, Mr. Floyd. At all times material they were directly employed by BPG, by and through Defendants ASC, BHCC and BHI, and/or working under the direction and supervision of their co-defendants, in their respective agency and/or employee and/or joint-venturer capacities.

9. Defendant Dr. Gregory Hickman, M.D. is a physician specializing in anesthesiology, practicing medicine at ASC, on the Gulf Breeze Hospital campus of BHI, located at 1040 Gulf Breeze Parkway, Suite 203 Suite 100, Gulf Breeze, Florida 32561. With respect to the Plaintiff, Mr. Floyd's treatment, Dr. Hickman performed the post-operative adductor canal nerve block, and was employed by, and was an officer, director, and owner of Defendant Paradigm Anesthesia, PA ("PA"), and/or served as a Medical Director and Anesthesia Director at ASC, a joint-venture

between Defendant BHCC, BHI and local physicians including himself and Dr. Andrews. As alleged in full below and through the incorporated chart, Dr. Hickman was an owner/shareholder, officer, joint-venturer with and/or agent of ASC, alongside Defendants Andrews, BHI and BHCC. Dr. Hickman purports to practice through PA, a corporation owned by him. At all times material, Dr. Hickman was operating in his capacity as an employee of and/or officer of and/or agent of (and for) and/or shareholder and/or joint-venturer with, and/or with, PA and ASC, BHI, BHCC, and Andrews. Further, at all times material, Dr. Hickman, in his officer and/or joint-venture capacities with ASC, was responsible for the supervision of Defendants PA, Andrews, Hendawi, and Warrell.

10. Defendant PA (Paradigm Anesthesia, P.A.) is a Florida Corporation with its principal place of business at 1040 Gulf Breeze Parkway, Suite 100, Gulf Breeze, Florida 32561. At all times material, PA exclusively provided all anesthesia services to ASC. By agreement between PA and ASC (by and through the various other Defendants in their joint-venture and/or agency capacities described in full below) and/or through a direct and/or agency relationship, PA provided anesthesia services to the Plaintiff, Mr. Floyd, notably, the post-operative adductor canal nerve block, using anesthesia services provided physically by Defendant Dr. Hickman.

11. Defendant Baptist Hospital Inc. (“BHI”) as well as BHI d/b/a Gulf Breeze Hospital is a Florida Corporation with its principal place of business in Escambia County at 1000 W Moreno St, Pensacola, Florida 32501. It is a wholly-owned subsidiary of BHCC, indirectly held through Baptist Health Ventures, Inc. BHI, in turn, owns and/or controls a majority interest in ASC. BHI’s Gulf Breeze campus houses ASC. BHI individually, in conjunction and/or with Defendants Drs. Andrews (in his agency capacity for BHCC and/or in his officer and/or joint-venture capacity at ASC) and Hickman (in his agency and/or officer and/or joint venture capacities, through PA and/or at ASC), sets the institutional standards of care for ASC, and BHI provides staffing, infrastructure,

and marketing/advertising to ASC in connection with its patient care. As set forth in full below, Defendants Drs. Andrews, Hickman, Warrell and Hendawi were acting as agents of BHI when they performed the procedures at issue. BHI was also a joint-venture partner in ASC and represented to the public that ASC was a joint venture operated by BHI and BHCC.

12. Defendant Baptist Physician Group, LLC (“BPG”) is a Florida Limited Liability Company with its principal place of business in Escambia County at 1717 North E Street, Suite 320, Pensacola, Florida 32501. At the time of the incidents at issue, BPG was owned by BHCC, was a “sister corporation” to BHI, employing Defendants Drs. Warrell and Hendawi as surgical fellows, in training under its direction, by and through Dr. Andrews, who were acting in the course of that employment. This is set forth in full below. Defendant Dr. Andrews billed and practiced as an agent of BPG, although he was an employee of its parent BHCC.

13. Defendant Baptist Health Care Corporation (“BHCC”) is a Florida corporation with its principal place of business in Escambia County at 1717 North E Street, Suite 320, Pensacola, Florida 32501. It is the direct-employer of Dr. Andrews, owner, corporate parent, and/or managing member of BHI and BPG and joint-venturer with Drs. Andrews and Hickman (among others), with respect to ASC. By its own terms, ASC is a joint venture between BHCC, BHI and various physicians, which, upon information and belief, include but are not limited to Defendants Drs. Andrews and Hickman. This is set forth in full below.

COMPLIANCE WITH FLORIDA STATUTE 766.106(2)

14. Notice of Intention to Initiate against the Defendants was given in accordance with the requirements of section 766.106(2), Florida Statutes, and received by all Defendants on or about August 1, 2018. A copy of the Notices provided to each Defendant are attached collectively as Composite Exhibit “A” (collectively “the Notices”). This action is filed within sixty (60) days of

the (i) of the expiration of the 90-day period following the receipt of the Notices and (ii) the rejection of any claim by any Defendant pursuant to section 766.106(3)(b), Florida Statutes.

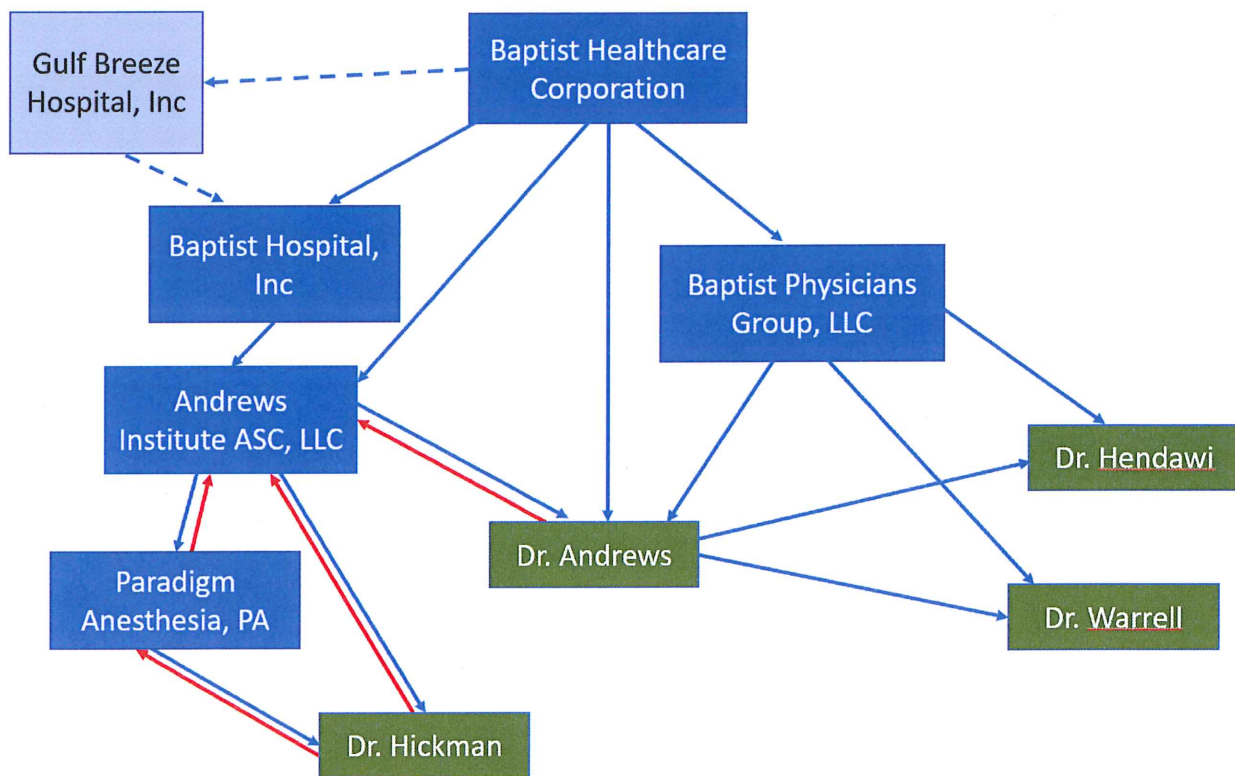
15. This action has been filed within two years of the time of the subject incident(s) subject to tolling during the pre-suit period beginning August 1, 2018. Moreover, it has been filed within two years of Plaintiff's discovery of his injuries after reasonable diligence. A copy of the Complaint has been sent to the Florida Department of Health and Agency of Healthcare Administration.

COMPLIANCE WITH FLORIDA STATUTE 766.203

16. Through counsel's signature on this Complaint, it is hereby certified pursuant to section 766.203, Florida Statutes, that counsel for the Plaintiff, prior to filing this action, made a reasonable investigation as permitted by the circumstances to determine that there are grounds for a good faith belief that there has been negligence in the care and treatment of the Plaintiff Sharraf Floyd. This has given rise to a good faith belief that grounds exist for an action against the named Defendants.

AGENCY / JOINT-VENTURE ALLEGATIONS

17. Defendants in this action have uniquely complex relationships to and amongst each other. We provide the incorporated chart for ease of reference, also enlarged and attached as Exhibit "B":



18. At all times material:

a) BHCC owned and controlled BHI and BPG directly, directly employed its agent Dr. Andrews, and owned and controlled ASC directly and/or through its joint-venture with Drs. Hickman and Andrews;

b) BPG, directly and/or through BHCC's agent and/or employee Dr. Andrews, supervised surgical fellows, including Drs. Hendawi and Warrell. Drs. Hendawi and Wendell were direct employees of BPG, and Dr. Andrews billed and practiced as an agent of BPG;

c) BHI as the agent of and/or joint-venturer with BHCC and others including Drs. Andrews and Hickman, was a majority and controlling owner of its joint-venture ASC;

d) ASC was a joint venture involving BHCC, BHI and Drs. Andrews and Hickman, and other local physicians, and/or acted as the agent of principals BHCC and BHI and/or Hickman and/or Andrews. Further, ASC controlled PA (itself and/or through Defendants BHCC, BHI, Andrews, Hickman);

e) PA, the professional association of its owner and/or member Dr. Hickman, exclusively provided anesthesia services on behalf of ASC (directly and/or

through BHCC, in turn through BHI and physician joint-venturers, including Defendant Drs. Andrews and Hickman). Through contract, ASC purports to delegate its hiring duties of its Anesthesia Director to PA, which, in turn, delegated the role to Dr. Hickman at ASC for this purpose (where he is also an owner and/or shareholder and/or partner and/or joint-venturer.)

f) Dr. Andrews was an employee of BHCC and/or an officer and director and/or the agent of BHCC, and ASC, as a Medical Director for ASC, by and through BHCC and BHI and/or his joint-venture with Defendants BHCC, BHI, and Hickman. Dr. Andrews himself, and as the agent and/or employee of BHCC, through BPG, also supervised his surgical fellows Drs. Warrell and Hendawi. Dr. Andrews billed and practiced as an agent of BPG;

g) Dr. Hickman was an employee and/or officer and/or director/member and/or agent of PA, and/or an agent of and/or joint-venturer with ASC, as their Director of Anesthesiology and a Medical Director at ASC, the joint-venture of BHCC, BHI, himself (in his owner/officer capacity) and Andrews (in his owner/officer/joint-venture capacity);

h) Drs. Warrell and Hendawi were employees of BPG as well as agents of Dr. Andrews (in his non-physician capacity), their supervisor and an employee/agent of BHCC, through BHI;

i) While an employee and/or agent of BHCC, Dr. Andrews practices and conducts business through BPG, BHI, and ASC. All medical treatment provided by Dr. Andrews and the fellows under his direction, including Drs. Hendawi and Warrell, occurred at the facility of ASC and BHI, by physicians employed by and associated with BPG and BHCC. Through the control otherwise alleged, ASC (a joint-venture of BHCC, BHI, Drs. Andrews and Hickman in their owner and/or shareholder and/or partner capacities), BHI and BHCC assume responsibility for the actions of Dr. Andrews and those acting under his negligent supervision, as they do for Dr. Hickman and/or PA, with respect to anesthesia care;

j) Drs. Hendawi, and Warrell were, at all times material to this litigation, employees and/or surgical fellows of ASC and BHI, working under their direct supervision, that of their employer BPG, and that of Defendant Dr. Andrews, as an employee and/or agent of ASC and BHCC (both directly and through BHI, as BHCC's agent). At all times material, actions taken by Drs. Hendawi and Warrell occurred at the facility of ASC and BHI; and

k) Dr. Hickman was at all times material (notably for the purposes of the subject, post-operative adductor-canal block), an employee of and/or agent of and/or

joint-venturer with ASC, serving as a Medical Director and Anesthesia Director for ASC, employee and/or officer of PA, providing his anesthesia services to ASC and BHI. During each of these events, Dr. Hickman was acting in the alleged course and scope of his capacities as employee and/or agent and/or principal and/or joint-venturer.

19. In light of Paragraph 18, all incidents of medical negligence occurred within the scope of the Defendant physicians' overlapping positions with ASC, BHI, BHCC, BPG, and PA. This included: Dr. Andrews' roles with, through and for BHI, BHCC and BPG; Dr. Hickman's roles as Medical Director and Director of Anesthesia for ASC and partner in PA, and Drs. Hendawi and Warrell's roles as fellows of ASC, employees of BPG, and agents of their supervisor Dr. Andrews and his employer BHCC.

20. In light of Paragraph 18, all incidents of medical negligence occurred within the scope of the Provider-Defendants' (ASC, BHI, BHCC, BPG, PA and Drs. Andrews and Hickman) capacities as agents and/or principals and/or partners and/or joint-venturers and/or employers.

21. Dr. Andrews's singularly high-profile orthopedic surgery practice represents a highly significant revenue source for the Provider-Defendants, who conduct business with, and through, their ASC joint venture and other related "Andrews Institute" entities, all of which form a common-enterprise of the Provider-Defendants.

22. The Andrews Institute brand and particularly ASC is a well-known part of the Baptist Health Care brand, and is extensively marketed by BHCC and BHI, which represent to the public that ASC, and other related "Andrews Institute" practices are part of, and a joint venture with, Baptist Healthcare. A key aspect of the marketing of the overall Andrews Institute brand is the targeting of high-profile professional athletes, such as the Plaintiff, Mr. Floyd.

23. Critical to the marketing of the Andrews Institute brand and the resulting revenue stream to BHCC, is the relationship between the Baptist companies (including BHCC and BHI) and

the highest of high-profile surgeries that Dr. Andrews, through the various co-Defendants, performs on the world's top athletes; this list includes the Plaintiff, Mr. Floyd.

24. Defendants, in furtherance and recognition of this, have undertaken to cultivate and grow this Andrews/Baptist Health Care brand. The Provider-Defendants engage in joint-marketing and joint-advertising to further this common enterprise.

25. The Provider-Defendants exercise uniquely hands-on efforts with respect to marketing medical services to elite pro-athletes. This includes finding high-end local housing, arranging for car-services and providing other "concierge" services to these professional athletes in an effort to further the profile of the common Andrews-Institute enterprise to high-profile athletes.

26. Indeed, an employee of ASC, Mr. Dan Knaul, not only assisted the Plaintiff, Mr. Floyd with car services, but was designated as his "agent." Mr. Knaul's function is to act as the point of contact between the Provider-Defendants and the professional athletes they target.

27. The deep roster of professional athletes cultivated by the Provider-Defendants builds their collective Andrews' Institute brand and markets the common-enterprise behind that brand, including the ASC joint-venture, to other potential patients.

28. Upon information and belief, Defendant Dr. Hickman, as Medical Director for ASC, and in conjunction with its majority owner BHI, was responsible for overseeing institutional standards of anesthesiology care for all patients, including Plaintiff Mr. Floyd.

29. Mr. Floyd selected Defendants based on the promotional statements with the exception of his anesthesia care, which he did not independently select, but rather, understood to be a function of his choice of surgery center and surgeon.

30. BHCC represents to the public that it is the controlling entity in ASC, that ASC is a

BHCC affiliate and that ASC is a joint venture between BHCC and the physicians that provide care at ASC.

31. BHCC and BHI set the institutional standards of care for ASC and its patients.

32. Although Defendant Dr. Hickman purports to work as an “independent contractor”, in fact, his primary professional email address is one belonging to Defendant ASC and he practices extensively or exclusively as part of ASC, in his role as Medical Direction and Director of Anesthesia care for ASC.

33. BHCC and BHI, through ASC, exercised exclusive control over Plaintiff Mr. Floyd’s anesthesiology care, by agreeing that Dr. Hickman would exclusively provide this care, as Director of Anesthesia for ASC.

34. ASC informs and advises its patients as to the anesthesia care that they will receive. Anesthesia is controlled by Dr. Hickman in his role as Director of Anesthesia services for ASC.

35. ASC references its nursing staff to its patients, which in fact BHI provides, per services agreements.

36. Defendants’ services agreements and Florida law create non-delegable obligations on the part of ASC, to provide non-negligent anesthesia services to the Plaintiff, Mr. Floyd. BHCC, BHI PA, and Drs. Andrews and Hickman (through the scope of their joint-venture and/or agency relationships with the foregoing) through agency and joint-venture liability, also are vicariously liable in connection with this non-delegable duty.

FACTS GIVING RISE TO CAUSE OF ACTION

37. At all times material, Mr. Floyd was a professional athlete with elite and specialized skills.

38. In and about August and September of 2016, with regard to complaints regarding his right knee, Mr. Floyd's care was overseen by Dr. Andrews.

39. During this time, with respect to Mr. Floyd's right knee, Defendant Dr. Andrews' recommendation as to the right knee was conservative management with an intent of entirely avoiding right knee surgery. Mr. Floyd's medical records on September 14, 2016, indicate as much, based on a review pertinent medical records and imaging.

40. Andrews specifically recommended that Mr. Floyd should "get the symptoms under control and play as tolerated [without] surgical intervention at this time in the hope of waiting until the end of the season."

41. On or before September 22, 2016, Mr. Floyd travelled to Florida to see Dr. Andrews at ASC /BHI/BPG, for what Floyd understood would be an examination to take place on September 22, 2016.

42. Medical records from this date give specific reference to BPG, ASC, and BHCC/BHI.

43. Prior to Mr. Floyd's arriving in Florida to see Dr. Andrews, and unbeknownst to Floyd, Dr. Andrews had in fact already scheduled Floyd for right knee surgery.

44. Mr. Floyd was immediately advised by the surgical fellows Drs. Hendawi and Warrell, and prior to any further examination, that surgery was recommended, and that this would be a minor knee-scope procedure, from which he would fully return to playing football within three to four weeks.

45. Mr. Floyd consented only to such a limited procedure. Documentation prior to the operative report itself makes reference only to arthroscopy/debridement; it makes no reference to the more invasive procedure performed.

46. Without Floyd's informed consent, Defendants Drs. Andrews, Hendawi, and Warrell—in their various employment and agency capacities by and through the various corporate Defendants—performed a materially different procedure.

47. In fact, Drs. Andrews, Hendawi, and Warrell performed a cartilage-regrowth procedure on the knee. This procedure was *not* the limited knee-scope procedure they advised would be performed. This was a materially different operation far greater risks and far greater impact to Floyd's ability to return to football.

48. Specifically, acting without informed consent Drs. Andrews, Warrell, and Hendawi (the latter two were surgical fellows) performed a cartilage-regrowth procedure on Mr. Floyd on September 22, 2016, violating the bone's surface, using an arthroscopic burr to purposefully cause bleeding.

49. Mr. Floyd never agreed, nor ever would have agreed to having this procedure performed, as it would have ended his professional season, even if successful.

50. At the time of the surgery, Defendants Drs. Hendawi and Warrell, very new fellows of Dr. Andrews, lacked the experience and training to perform such complex procedures without adequate supervision.

51. This procedure could not have been performed by three physicians. Moreover, it would have been logistically implausible for two physicians to supervise the physician performing the procedure. In addition, this more invasive procedure was not indicated to have been performed in advance whatsoever.

52. Upon information and belief, Defendants Dr. Andrews himself, and by and through BPG, ASC, BHI, and BHCC, was not physically able to have supervised Drs. Hendawi and Warrell

in connection with this procedure as described.

53. The cartilage-regrowth procedure actually performed on (but not consented to by) Mr. Floyd, purportedly by the triumvirate of Drs. Andrews, Hendawi, and Warrell, would also leave him in substantially greater post-operative and/or perioperative pain than the one he consented to having.

54. Following surgery and to address this post-operative pain, Defendant Dr. Hickman in all relevant capacities, performed a post-operative adductor-canal nerve block.

55. This post-operative adductor-canal nerve block carried the risk of career-ending complications, yet was not necessary for recovery; nor was it necessary for post-operative pain relief.

56. Mr. Floyd had not consented to a post-operative block prior to surgery.

57. Indeed, Floyd, a professional athlete, would have preferred to remain in pain rather than undergo such a non-essential procedure that gambled his entire career.

58. Nor could Floyd have consented to this block at the time it was performed (nor did he), as he was heavily medicated.

59. Defendants BHCC, ASC, and BHI did not explain to Floyd that Defendants Paradigm and Hickman—whom Floyd did not select for anesthesia care—were purported to be independent contractors.

60. Nor did Defendants provide Floyd with a choice as to his anesthesia care-givers. All personnel providing such treatment were represented to Floyd to be part of ASC, which was represented to be a joint venture of BHCC and BHI.

61. The risks associated with the post-operative adductor canal block became realized as Dr. Hickman negligently misplaced the block, permanently injuring and/or destroying portions of Floyd's femoral/saphenous nerves and attendant musculature (e.g. the quadriceps and vastus

medialis muscles.)

62. At no time did Defendant Andrews communicate patient-specific concerns to Defendant Hickman and/or PA, which would have included the fact that with respect to non-essential, post-operative pain-management, any pro-athlete, and particularly one approaching a contract-year, post-operative nerve blocks carrying a risk of career-ending injury should be avoided at all costs.

63. Further, at no time did Defendants Drs. Andrews, Warrell and/or Hendawi communicate with physical therapists to observe for and mitigate against post-procedure complications, such as nerve injury.

64. Defendants Drs. Andrews and Warrell and Hendawi (his fellows), failed to take reasonable steps to assess whether Floyd demonstrated any evidence of surgical complications or mitigate the harm caused by the complications.

65. As a proximate and/or direct result of the aforementioned actions and inactions, Floyd suffered permanent injury to the right lower extremity, notably femoral/saphenous nerve injury and quadriceps/vastus medialis atrophy, as diagnosed first on or about December of 2016, and subsequently on EMG/NCV studies.

66. Floyd's career as one of the most promising young players at his position is now over.

67. Floyd is no longer able to play football as a direct result of these injuries, proximately caused by the actions and inactions as alleged above and herein.

68. Floyd was slated to earn approximately \$6.7M in 2017; he did not. His capacity to earn, commensurate with the top players at his position (some earning close to \$24M/year) over the coming decade—his reasonably anticipated and intended career duration—has been reduced to

\$0.

DAMAGES COMMON TO ALL COUNTS

69. As a direct and proximate result of the actions by Defendants, as set forth above, the patient Plaintiff Floyd has suffered and will continue to suffer in the future the following damages, among others:

- a) Permanent and severe bodily injury;
- b) Past and future medical expenses;
- c) Lost wages;
- d) Impaired future earning capacity;
- e) Permanent disability from professional sports;
- f) Pain, suffering; and emotional distress, shame, damage to good name; and
- g) Impaired protection and society for Floyd's two minor children.

COUNT I **MEDICAL NEGLIGENCE (DR. HICKMAN)**

70. The allegations of fact set forth in paragraph 1 through 69 above are incorporated herein as if repeated.

71. At all times material, Defendant Dr. Hickman owed a duty to provide medical treatment to the Plaintiff which conformed to the applicable standards of care, specifically by:

- a) Advising the patient properly as to the risks and benefits of a post-operative adductor canal block;
- b) Obtaining standard-of-care informed consent from the patient before performing the post-operative adductor canal block;
- c) Avoiding surgical error by performing only those procedures indicated by the

standard of care; and

- d) Avoiding surgical error by performing any such indicated procedures non-negligently.

72. As described in detail above, the treatment of Plaintiff Floyd by Defendant Dr. Hickman constituted a breach of the applicable standard of care in that:

- a) Defendant failed to advise the patient of the risks and benefits of a post-operative adductor canal block;
- b) Defendant performed the post-operative adductor canal block without obtaining the patient's informed consent to do so;
- c) Defendant performed a post-operative adductor canal block, which was contraindicated for Mr. Floyd; and
- d) Defendant committed a surgical error in administering the post-operative adductor canal block into the nerve itself.

73. As a proximate result of Defendant's negligence, the Plaintiff was injured and damaged as more fully described above.

WHEREFORE, Plaintiff demands judgment for all available damages available under the law against Defendant, together with attorneys' fees and the costs of this action and such further relief as the Court deems proper, and demands trial by jury of all issues so triable.

COUNT II
NON-DELEGABLE DUTY (DEFENDANT ASC)

74. The allegations of fact set forth in paragraph 1 through 69 above are incorporated herein as if repeated.

75. At all times material, pursuant to the applicable services agreements and Rule 59A-3.2085(4) of the Florida Administrative Code, an AHCA regulation enacted pursuant to Chapter 395, Defendant ASC owed a non-delegable duty to provide non-negligent anesthesia services to the

Patient, Mr. Floyd, specifically by:

- a) Advising the patient properly as to the risks and benefits of a post-operative adductor canal block;
- b) Obtaining standard-of-care informed consent from the patient before performing the post-operative adductor canal block;
- c) Avoiding surgical error by performing only those procedures indicated by the standard of care; and
- d) Avoiding surgical error by performing any such indicated procedures non-negligently.

76. Defendant breached these non-delegable duties of care to Mr. Floyd, the patient, specifically by the following:

- a) Failing to advise the patient of the risks and benefits of a post-operative adductor canal block;
- b) Performing the post-operative adductor canal block without obtaining the patient's informed consent to do so;
- c) Performing a post-operative adductor canal block, which was contraindicated for Mr. Floyd; and
- d) Committing a surgical error in administering the post-operative adductor canal block into the nerve itself.

77. As a proximate result of Defendant's negligence, the Plaintiff was injured and damaged as more fully described above.

WHEREFORE, Plaintiff demands judgment for all available damages available under the law against Defendant, together with attorneys' fees and the costs of this action and such further relief as the Court deems proper, and demands trial by jury of all issues so triable.

COUNT III
AGENCY (DEFENDANTS PA, ASC, BHCC, BHI)

78. The allegations of fact set forth in paragraph 1 through 69 above are incorporated herein as if repeated.

79. This is a count seeking vicarious liability against Defendants, based upon the agency relationship with Defendant Dr. Hickman and his negligence.

80. At all times material, an agency relationship existed between Defendant Dr. Hickman and the Defendant entities (PA, ASC, BHCC and BHI).

81. Defendants PA, ASC, BHCC, and BHI, by and through their agent Dr. Hickman, owed a duty to the patient, Plaintiff Floyd, to, among other things:

- a) Advise the patient properly as to the risks and benefits of a post-operative adductor canal block;
- b) Obtain standard-of-care informed consent from the patient before performing the post-operative adductor canal block;
- c) Avoid surgical error by performing only those procedures indicated under the standard of care;
- d) Avoid surgical error by performing any such indicated procedures non-negligently;
- e) Ensure that Plaintiff received competent, non-negligent medical care; and
- f) Operate its medical facility in a safe and proper manner to prevent injury.

82. Defendants breached these non-delegable duties of care to Mr. Floyd, the patient, specifically by the following:

- a) Failing to advise the patient of the risks and benefits of a post-operative adductor canal block;

- b) Performing the post-operative adductor canal block without obtaining the patient's informed consent to do so;
- c) Performing a post-operative adductor canal block, which was contraindicated for Mr. Floyd;
- d) Committing a surgical error in administering the post-operative adductor canal block into the nerve itself;
- e) Failing to ensure that Plaintiff received competent, non-negligent medical care; and
- f) Failing to operate its medical facility in a safe and proper manner to prevent injury.

83. As a proximate result of Defendants' negligence, the Plaintiff was injured and damaged as more fully described above.

WHEREFORE, Plaintiff demands judgment for all available damages available under the law against Defendants, together with attorneys' fees and the costs of this action and such further relief as the Court deems proper, and demands trial by jury of all issues so triable.

COUNT IV
JOINT VENTURE (DEFENDANTS BHI, BHCC, ASC, ANDREWS, and HICKMAN)

84. The allegations of fact set forth in paragraph 1 through 69 above are incorporated herein as if repeated.

85. This is a count seeking vicarious liability against Defendants, BHI, BHCC, ASC, Andrews, and Hickman based on their joint venture in ASC.

86. Defendant ASC is a joint venture between BHCC, acting and exerting control and sharing in profits through BHI, and certain physicians, which include Andrews and Hickman. The joint venturers, BHCC, BHI and the physicians (including Drs. Andrews and Hickman), jointly promote and market ASC, share in its profits and losses, and manage it as a common enterprise.

87. Defendants BHCC, BHI, Andrews, and Hickman, jointly market the patient-care services of ASC. Each contributes through its marketing/advertising services through a jointly created and shared marketing plan targeting professional athletes such as Plaintiff. These defendants, further, represent to patients that ASC is a joint venture between “Baptist Health Care” and area physicians. Defendants thus jointly market and promote ASC in furtherance of the common purpose of their patient-care enterprise, and represent the joint venture relationship to the public to gain their confidence that ASC is operated by and a joint venture of BHI and BHCC and local physicians.

88. Patients such as Floyd are told of the relationship to BHI and BHCC to provide them assurance that they are working with a nationally recognized healthcare provider such as Baptist Healthcare.

89. Defendants, BHCC, BHI, Andrews, and Hickman jointly control their operations in the provision of surgical and anesthesia services to professional athletes, including Plaintiff, through ASC.

90. Defendants maintained a joint-propriety interest in subject matter of ASC. BHCC owns 54.35 percent of ASC through its subsidiary BHI. BHCC exercises control of ASC through its majority interest. Further Dr. Andrews is, upon information and belief, the next largest proportionate owner of ASC, and, upon information and belief, Dr. Hickman is also a part-owner.

91. Defendants contracted to share in certain profits. BHCC and BHI realize profits in ASC. Through its majority interest in the venture. BHI and BHCC share in the revenues and expenses of ASC, and exercise control over ASC expenditures, hiring, capital investments and operational costs.

92. BHCC employees, including Dr. Andrews, manage the enterprise for the interest of BHCC and its minority-interest partners.

93. Defendants have agreed to share in certain losses (notably agreeing to indemnify each other under various circumstances). In addition, Defendants share in the ordinary income and expenses of ASC and realize distributions of its net profits.

94. Defendants ASC, BHCC, BHI, Andrews, and Hickman, were acting within the scope of venture, in providing medical services to the patient, Plaintiff Floyd, and are therefore jointly responsible for the medical negligence of Defendants Hickman and ASC, as alleged in Counts I and II, who was acting within the scope of the joint venture, in his position as Chief of Anesthesia of ASC.

WHEREFORE, Plaintiff demands judgment for all available damages available under the law against Defendants, together with attorneys' fees and the costs of this action and such further relief as the Court deems proper, and demands trial by jury of all issues so triable.

COUNT V
MEDICAL NEGLIGENCE (ORTHOPEDIC SURGEON DEFENDANTS)

95. The allegations of fact set forth in paragraph 1 through 69 above are incorporated herein as if repeated.

96. At all times material, Defendants Drs. Andrews, Hendawi, and Warrell owed a duty to provide medical treatment to the Plaintiff that conformed to the applicable standards of care, including the following:

- a) Advising the patient on the risks and benefits of all procedures performed;
- b) Obtaining standard-of-care informed consent relative to all procedures performed;
- c) Communicating patient-specific risks to the anesthesiologist; and
- d) Monitoring the patient's post-operative progress to observe for and mitigate against post-operative complications.

97. As described in detail above, Defendants' treatment of Plaintiff Floyd constituted a breach of the applicable standard of care in that:

- a) Defendants failed to advise the patient on the risks-vs-benefits of a cartilage-regrowth procedure, and further failed to inform him he would be undergoing such a procedure;
- b) Defendants performed a cartilage-regrowth procedure without the patient Mr. Floyd's informed consent;
- c) Defendants failed to communicate patient-specific risks to the anesthesiologist; and
- d) Defendants failed to monitor the patient post-operatively to mitigate against post-operative complications.

98. As a proximate result of Defendants' negligence, the Plaintiff was injured and damaged as more fully described above.

WHEREFORE, Plaintiff demands judgment for all available damages available under the law against Defendants, together with attorneys' fees and the costs of this action and such further relief as the Court deems proper, and demands trial by jury of all issues so triable.

COUNT VI
NEGLIGENT SUPERVISION (DEFENDANTS ASC, BPG, and ANDREWS)

99. The allegations of fact set forth in paragraph 1 through 69 above are incorporated herein as if repeated.

100. At all times material, Defendants ASC, BPG, and Dr. Andrews were required to adequately supervise Drs. Hendawi and Warrell, both surgical fellows directly employed by BPG and working under the direction and supervision of Dr. Andrews, who is an employee of BHCC and a partner in and agent of ASC.

101. Defendants failed to adequately supervise Drs. Hendawi and Warrell, such that each surgical fellow performed material aspects of an operation beyond the bounds of their skill, and such that each performed a cartilage-regrowth procedure on the patient, Plaintiff Floyd in the absence of his consent.

102. Defendants' negligent supervision, the patient was a substantial factor in Plaintiff Floyd's injury and damages, as more fully described above.

WHEREFORE, Plaintiff demands judgment for all available damages available under the law against Defendants, together with attorneys' fees and the costs of this action and such further relief as the Court deems proper, and demands trial by jury of all issues so triable.

COUNT VII
AGENCY (DEFENDANTS ASC, BHCC and BPG)

103. The allegations of fact set forth in paragraph 1 through 69 above are incorporated herein as if repeated.

104. This is a count seeking vicarious liability against Defendants ASC, BHCC and BPG, based upon their agency relationship with Defendants Drs. Andrews, Hendawi, and Warrell, and these defendant-orthopedists' negligence.

105. At all times material, an agency relationship existed between Defendants ASC, BHCC and BPG and Defendants Drs. Andrews, Hendawi, and Warrell.

106. Defendants ASC, BHCC and BPG, by and through their agents Drs. Andrews, Hendawi, and Warrell, as alleged in count V, owed a duty to the patient, Plaintiff Floyd, to, among other things:

- a) Advise the patient properly as to the risks and benefits of a post-operative adductor canal block;

- b) Obtain standard-of-care informed consent from the patient before performing the post-operative adductor canal block;
- c) Avoid surgical error by performing only those procedures indicated under the standard of care;
- d) Avoid surgical error by performing any such indicated procedures non-negligently;
- e) Ensure that Plaintiff received competent medical care; and
- f) Operate its medical facility in a safe and proper manner to prevent injury.

107. Defendants breached these duties of care to Mr. Floyd, the patient, specifically by the following:

- a) Failing to advise the patient of the risks and benefits of a post-operative adductor canal block;
- b) Performing the post-operative adductor canal block without obtaining the patient's informed consent to do so;
- c) Performing a post-operative adductor canal block, which was contraindicated for Mr. Floyd;
- d) Committing a surgical error in administering the post-operative adductor canal block into the nerve itself;
- e) Failing to ensure that Plaintiff received competent medical care; and
- f) Failing to operate its medical facility in a safe and proper manner to prevent injury.

108. Defendants' negligence was a substantial factor in, the patient, Plaintiff Floyd's injury and damages as more fully described above.

WHEREFORE, Plaintiff demands judgment for all available damages available under the law against Defendants, together with attorneys' fees and the costs of this action and such further relief

as the Court deems proper, and demands trial by jury of all issues so triable.

COUNT VIII
JOINT VENTURE (DEFENDANTS BHI, BHCC, ASC and ANDREWS)

109. The allegations of fact set forth in paragraph 1 through 69 above are incorporated herein as if repeated.

110. This is a count seeking vicarious liability against Defendants, BHI, BHCC, Andrews and Hickman based on their joint venture in ASC.

111. Defendant ASC is a joint venture between BHCC, acting and exerting control and sharing in profits through BHI, and certain physicians, which include Andrews and Hickman. The joint venturers, BHCC, BHI and the physicians (including Drs. Andrews and Hickman), jointly promote and market ASC, share in its profits and losses, and manage it as a common enterprise.

112. Defendants BHCC, BHI, Andrews, and Hickman, jointly market the patient-care services of ASC. Each contributes through its marketing/advertising services through a jointly created and shared marketing plan targeting professional athletes such as Plaintiff. These defendants, further, represent to patients that ASC is a joint venture between “Baptist Health Care” and area physicians. Defendants thus jointly market and promote ASC in furtherance of the common purpose of their enterprise, and represent the joint venture relationship to the public to gain their confidence that ASC is operated by and a joint venture of BHI and BHCC and local physicians.

113. Patients such as Floyd are told of the relationship to BHI and BHCC to provide them assurance that they are working with a nationally recognized healthcare provider such as Baptist Healthcare.

114. Defendants, BHCC, BHI, Andrews, and Hickman jointly control their operations in the provision of surgical and anesthesia services to professional athletes, including Plaintiff, through

ASC.

115. Defendants maintained a joint-propriety interest in subject matter of ASC. BHCC owns 54.35 percent of ASC through its subsidiary BHI. BHCC exercises control of ASC. Further Dr. Andrews, a BHCC employee, is, upon information and belief, the next largest proportionate owner of ASC. Upon information and belief, Dr. Hickman is also a part-owner.

116. BHCC employees, including Dr. Andrews, manage the common enterprise for the interest of BHCC and its minority-interest partners.

117. Dr. Andrews is a BHCC employee and his actions at ASC are within the scope of that employment. Thus, BHCC exercises control over ASC both through its majority ownership and its control of Dr. Andrews as a BHCC employee. Other key ASC personnel including the nursing and physical therapy staff are provided by BHI through its employees. The surgical fellows providing patient care at ASC, including Defendants Warrell and Hendawi, are employed by BPG, another subsidiary under the full control of BHCC.

118. Defendants contracted to share in certain profits. BHCC and BHI realize the majority of profits in ASC, through its majority interest in the venture. BHI and BHCC share in the revenues and expenses of ASC, and exercise control over ASC expenditures, hiring, capital investments and operational costs.

119. Defendants have agreed to share in certain losses (notably agreeing to indemnify each other under various circumstances.) In addition, Defendants share in the ordinary income and expenses of ASC and realize distributions of its net profits.

120. Defendants (ASC, BHCC, BHI, and Andrews) were acting within the scope of the venture in providing medical services to the patient, Plaintiff Floyd, and are therefore jointly

responsible for the medical negligence of Defendants Andrews, Hendawi, and Warrell, as alleged in Count V.

121. Defendants (ASC, BHCC, BHI, and Andrews) were also acting within the scope of the venture in providing medical services to the patient, Plaintiff Floyd, such that they are also jointly responsible for the negligent supervision of the surgical fellows as alleged in Count VI.

WHEREFORE, Plaintiff demands judgment for all available damages available under the law against Defendants, together with attorneys' fees and the costs of this action and such further relief as the Court deems proper, and demands trial by jury of all issues so triable.

DATED: November 6, 2018.

Respectfully submitted,

THE BRAD SOHN LAW FIRM, PLLC
Attorneys for Plaintiff Sharrif Floyd
2600 S. Douglas Road - Suite 1007
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Telephone: (786) 708-9750
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By: Brad R. Sohn
BRAD R. SOHN, FBN 98788
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- AND -

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Composite A

RASCO | KLOCK

ATTORNEYS

RASCO | KLOCK | PEREZ | NIETO

July 18, 2018

VIA CERTIFIED MAIL & RETURN RECEIPT

Dr. James Andrews, M.D.
1040 Gulf Breeze Parkway
Suite 203
Gulf Breeze, Florida 32561

Dr. Gregory Hickman, M.D.
1040 Gulf Breeze Parkway
Suite 100
Gulf Breeze, Florida 32561

Dr. Tariq Hendawi, M.D.
2120 N. MacArthur Blvd.
Irving, TX 75061

Dr. Christopher Warrell, M.D.
25 W. Crystal Lake Street, Suite 200
Orlando, Florida 32806

Dr. John Brandon Winchester, M.D.¹
1040 Gulf Breeze Parkway
Gulf Breeze, Florida 32561

Mr. Hunter Stark
1040 Gulf Breeze Parkway
Gulf Breeze, Florida 32561

Mr. Anthony Inzilli
1040 Gulf Breeze Parkway
Gulf Breeze, Florida 32561

Andrews Sports Medicine & Orthopedic & Sports Medicine
d/b/a The Andrews Institute
1040 Gulf Breeze Parkway
Gulf Breeze, Florida 32561

Andrews Institute Ambulatory Surgery Center
1040 Gulf Breeze Parkway
Gulf Breeze, Florida 32561

The Andrews Institute Ambulatory Surgery Center, LLC
1040 Gulf Breeze Parkway
Gulf Breeze, Florida 32561

Andrews Institute Rehabilitation, LLC
1040 Gulf Breeze Parkway
Gulf Breeze, Florida 32561

Paradigm Anesthesia, P.A.
1040 Gulf Breeze Parkway
Gulf Breeze, Florida 32561

¹ See n. 2, *infra*.

Baptist Hospital, Inc.
1717 North E Street
Suite 320
Pensacola, Florida 32501

Baptist Health Care Corporation
1717 North E Street
Suite 320
Pensacola, Florida 32501

Baptist Medical Group, LLC
1717 North E Street
Suite 320
Pensacola, Florida 32501

Re: Shariff Floyd v. James Andrews, M.D., et al.

Notice of Intent to Initiate Medical Negligence Litigation Pursuant to Fla. Stat. 766.106(2)

Dear Sir or Madam:

Please be advised that our firms represent Shariff K. Floyd, date of birth 5/28/1991, individually and as parent of minor children Trygg Floyd and Aria Floyd (hereafter, all references to "Floyd" or "Mr. Floyd" shall incorporate any/all claims on behalf of each minor child), in connection with claims for medical negligence, which was the result of medical care and treatment he received by you, on or about September 22, 2016, and thereafter in October and November of 2016.

This letter will serve as statutory notice of intent to initiate litigation for medical negligence pursuant to Florida Statute §766.106(2) on behalf of Mr. Floyd, against the above prospective defendants.

A good-faith, pre-suit medical investigation of this matter was conducted in accordance with the provisions of Florida Statute 766.106 and revealed that reasonable grounds exist to support a claim of medical negligence on behalf of Mr. Floyd. The medical negligence being asserted against the prospective defendants relates to Mr. Floyd's right knee arthroscopy (and other procedures performed), post-operative nerve block, post-operative follow-up care/rehabilitation, and the resultant permanent nerve/muscle damage in Mr. Floyd's right lower extremity.

Pursuant to the good faith pre-suit medical investigation requirements of Florida Statute 766.106, enclosed please find the following Verified Medical Expert Opinion reports and Curriculum Vitae providing medical expert corroboration that reasonable grounds exist to support a claim of medical negligence on behalf of Mr. Floyd against his treating healthcare providers, (including all professional associations, ambulatory surgery centers, and hospitals.)

- A. Verified Medical Expert Opinion report and Curriculum Vitae of Dr. Richard Novak, M.D. (Board Certified, Anesthesiology);
- B. Verified Medical Expert Opinion report and Curriculum Vitae of Dr. Byron King, M.D. (Board Certified, Orthopedic Surgery); and
- C. Verified Medical Expert Opinion report and Curriculum Vitae of Martin Huegel, P.T., M.Ed. (Physical Therapy and Sports Medicine Rehabilitation)

The above referenced Verified Medical Expert Opinion reports will provide you with specific deviations from the accepted standard of care being asserted against each named prospective defendant.

The proposed lawsuit will allege that all times material to the subject incident, Mr. Floyd was a patient of Drs. Andrews, Hickman², Warrell, and Hendawi, and Messrs. Stark and Inzilli, by and through the various entities named above.

The proposed lawsuit will allege that all times material to the subject incident, the orthopedic surgeons, Drs. Andrews, Warrell, and Hendawi were acting in the course and scope of employment with The Andrews Institute and/or Andrews Institute Ambulatory Surgery Center, and/or Andrews Institute ASC, and/or Andrews Institute ASC, LLC, and/or Andrews Institute Rehabilitation, LLC, and/or Baptist Hospital, Inc., and/or Baptist Health Care Corporation, and/or Baptist Medical Group, LLC; therefore, these entities will be held vicariously liable for the actions of their respective agents and/or apparent agents and/or servants and employees, Drs. Andrews, Warrell, and Hendawi. It will alternatively allege that at all times material to the subject incident, Dr. James Andrews was an owner and/or shareholder in the foregoing corporate entities, and that he is liable for the acts of himself and/or Drs. Warrell and/or Hendawi and/or Hickman on that basis. The lawsuit will also allege joint venture theories of liability between the Andrews and Baptist entities.

² Billing records received from Paradigm Anesthesia, P.A. indicate that Dr. Winchester performed the nerve block. Dr. Winchester informed the undersigned in writing that he did not do so. Further, all notes and patient records indicate that Dr. Hickman performed the nerve block. While we are inclined to believe Dr. Hickman performed it, we have also served notice on Dr. Winchester out of an abundance of caution.

The proposed lawsuit will allege that at all times material to the subject incident, the anesthesiologist, Dr. Hickman M.D. (or Winchester, *see n.2*) was acting in the course and scope of employment with Paradigm Anesthesia, P.A., and/or The Andrews Institute and/or Andrews Institute Ambulatory Surgery Center, and/or Andrews Institute ASC, and/or Andrews Institute ASC, LLC, and/or Baptist Hospital, Inc., and/or Baptist Health Care Corporation, and/or Baptist Medical Group, LLC; therefore, these entities will be held vicariously liable for the actions of their respective agents and/or apparent agents and/or servants and employee(s) Dr. Gregory Hickman, M.D (or Winchester, *see above*.) It will alternatively allege that at all times material to the subject incident, Drs. Hickman and Andrews were owner(s) and/or shareholder(s) in the foregoing corporate entities, and that they are liable for the acts of themselves, each other (and/or Dr. Winchester) on that basis. With respect to anesthesia services, the proposed lawsuit will also allege a non-delegable duty on the part of the Andrews and Baptist entities, along with joint venture theories of liability.

The proposed lawsuit will allege that all times material to the subject incident, the physical therapists, Messrs. Hunter Stark and Anthony Inzilli, were acting in their respective course and scope of employment with The Andrews Institute and/or Andrews Institute Ambulatory Surgery Center, and/or Andrews Institute ASC, and/or Andrews Institute ASC, LLC, and/or Andrews Institute Rehabilitation, LLC, and/or Baptist Hospital, Inc., and/or Baptist Health Care Corporation, and/or Baptist Medical Group, LLC; therefore, these entities will be held vicariously liable for the actions of their respective agents and/or apparent agents and/or servants and employees, Messrs. Stark and Inzilli. It will alternatively allege that at all times material to the subject incident, Dr. James Andrews was an owner and/or shareholder in the foregoing corporate entities, and that he is liable for the acts of himself and/or Messrs. Stark and Inzilli on that basis. The lawsuit will also allege joint venture theories of liability between the Andrews and Baptist entities.

The proposed lawsuit will be presenting claims for all recoverable economic and non-economic damages including but not limited to: impaired future earning capacity; pain and suffering, and all medical damages as provided under the Florida Statutes on behalf of Mr. Floyd and his two dependent children. Presently, and subject to change based on the presence of additional information, Mr. Floyd's future earning capacity, as supported by former NFL management with Super Bowl championship experience, is estimated at \$180,000,000.00. To the best of Mr. Floyd's recollection and knowledge, and pursuant to Florida Statute 766.106(2)(a), the following healthcare treaters provided medical care to Mr. Floyd in the two year period preceding this incident:

- Dr. Frank Cordasco (Orthopedic Sports Medicine Surgeon) Hospital for Special Surgery, New York;
- Dr. James Andrews (Defendant);
- Dr. Joshua Hackel, (Non-Surgical Sports Medicine) Andrews Institute;

- Dr. Chris Larson, (Orthopedic Sports Medicine Surgeon) Mayo Clinic / Minnesota Vikings;
- Minnesota Vikings Training and Rehabilitation Staff (Brian Sugarman, Thomas Hunkele, Robert Roche, Albert Padilla);
- Athletix Rehab and Recovery (Sharif Tabeh, DPT);
- Dr. Gregory Lervick (Radiologist);
- Dr. Matthew Pollema (Radiologist);
- Dr. Hollis Fritz (Radiologist); and
- Dr. David Olson (Family Medicine).

It is possible that Mr. Floyd does not recall all of his healthcare providers. Generally, with NFL players, their exhaustive records are uploaded onto an Electronic Medical Records system (an "EMR.") However, if by reviewing the medical records or by any means, you believe that Mr. Floyd may have been treated by other providers not listed, please bring those individuals to our attention. We will be happy to respond to the inquiry.

Enclosed, with this notice of intent to initiate litigation letter are the following medical records, which were reviewed by the above-mentioned Medical Experts in formulating their medical expert opinions on this matter:

- NFL EMR Records (believed to be comprehensive)
- Records Produced by Andrews, Paradigm, and Baptist Entities, and specific providers
- Chart Note, Dr. Matt Provencher, April 28, 2018

Pursuant to Florida Statutes 627.4137, please provide the undersigned with the following professional liability insurance information within the next thirty (30) days:

- A. Name of professional liability provider;
- B. Name of each insured;
- C. Limits of liability coverage;
- D. Statement of any policy or coverage defense which has been asserted by your insurance at the time of this claim; and
- E. Copy of your insurance policy/ policies. (The entire insurance policy; not just the Declaration Page.)

Enclosed, please find the Pre-suit Request for Discoverable Information. Presuit Request for Production and Presuit Contention Interrogatories, which must be completed by you and returned to the undersigned within the **next twenty (20) days.**

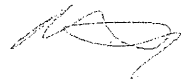
Pursuant to statutory notice obligations as designated in Florida Statute 766.1065(3), enclosed is an executed authorization for release of protected health information.

Thank you for your attention to this matter.

Very truly yours,



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rmccaffrey@rascoklock.com

BRS/brs

Encls.

Pre-suit Request for Discoverable Information;
Pre-suit Request for Production;
Pre-suit Contention Interrogatories;
Medical Records;
Medical Authorization required by Florida Statute 766.1065;
Verified Medical Expert Opinion Reports;
Curriculum Vitae of Byron King, M.D.;
Curriculum Vitae of Richard Novak, M.D.; and
Curriculum Vitae of Martin Huegel

RASCO | KLOCK

ATTORNEYS

RASCO | KLOCK | PEREZ | NIETO

August 22, 2018

VIA FEDERAL EXPRESS

J. Nixon Daniel, III, Esq.
Beggs & Lane RLLP
501 Commendencia Street
Pensacola, FL 32502

Counsel for Addressees Below

Gulf Breeze Hospital
1110 Gulf Breeze Pkwy.
Gulf Breeze, FL 32561

Baptist Physician Group, LLC
1717 N. East Street - Suite 320
Pensacola, FL 32501

Baptist Hospital Inc. d/b/a/ Gulf Breeze Hospital
1717 N. East Street - Suite 320
Pensacola, FL 32501

Re: Shariff Floyd v. Baptist Physician Group, LLC, et al.

Notice of Intent to Initiate Medical Negligence Litigation Pursuant to Fla. Stat. 766.106(2)

Dear Mr. Daniel:

Please be advised that our firms represent Shariff K. Floyd, date of birth 5/28/1991, individually and as parent of minor children Trygg Floyd and Aria Floyd (hereafter, all references to "Floyd" or "Mr. Floyd" shall incorporate any/all claims on behalf of each minor child), in connection with claims for medical negligence, which was the result of medical care and treatment he received by you, on or about September 22, 2016, and thereafter in October and November of 2016.

This letter will serve as statutory notice of intent to initiate litigation for medical negligence pursuant to Florida Statute §766.106(2) on behalf of Mr. Floyd, against the above prospective defendants.

Attached hereto is a Notice of Intent to Initiate Medical Negligence Litigation Pursuant to Fla. Stat. 766.106(2) dated July 18, 2018 and the entire contents of the attached letter are incorporated here as if repeated herein.

A good-faith, pre-suit medical investigation of this matter was conducted in accordance with the provisions of Florida Statute 766.106 and revealed that reasonable grounds exist to support a claim of medical negligence on behalf of Mr. Floyd. The medical negligence being asserted against the prospective defendants relates to Mr. Floyd's right knee arthroscopy (and other procedures performed), post-operative nerve block, post-operative follow-up care/rehabilitation, and the resultant permanent nerve/muscle damage in Mr. Floyd's right lower extremity.

Pursuant to the good faith pre-suit medical investigation requirements of Florida Statute 766.106, enclosed please find the following Verified Medical Expert Opinion reports and Curriculum Vitae providing medical expert corroboration that reasonable grounds exist to support a claim of medical negligence on behalf of Mr. Floyd against his treating healthcare providers, (including all professional associations, ambulatory surgery centers, and hospitals.)

- A. Verified Medical Expert Opinion report and Curriculum Vitae of Dr. Richard Novak, M.D. (Board Certified, Anesthesiology);
- B. Verified Medical Expert Opinion report and Curriculum Vitae of Dr. Byron King, M.D. (Board Certified, Orthopedic Surgery); and
- C. Verified Medical Expert Opinion report and Curriculum Vitae of Martin Huegel, P.T., M.Ed. (Physical Therapy and Sports Medicine Rehabilitation)

The above referenced Verified Medical Expert Opinion reports will provide you with specific deviations from the accepted standard of care being asserted against each named prospective defendant.

The proposed lawsuit will allege that all times material to the subject incident, Mr. Floyd was a patient of Drs. Andrews, Hickman¹, Warrell, and Hendawi, and Messrs. Stark and Inzillo, by and through the various entities named above as well as in the attached July 18, 2018 NOI letter.

¹ Billing records received from Paradigm Anesthesia, P.A. indicate that Dr. Winchester performed the nerve block. Dr. Winchester informed the undersigned in writing that he did not do so. Further, all notes and patient records indicate that Dr. Hickman performed the nerve block. While we are inclined to believe Dr. Hickman performed it, we have also served notice on Dr. Winchester out of an abundance of caution.

The proposed lawsuit will allege that all times material to the subject incident, the orthopedic surgeons, Drs. Andrews, Warrell, and Hendawi were acting in the course and scope of employment with The Baptist Physician Group, LLC and/or The Andrews Institute and/or Andrews Institute Ambulatory Surgery Center, and/or Andrews Institute ASC, and/or Andrews Institute ASC, LLC, and/or Andrews Institute Rehabilitation, LLC, and/or Baptist Hospital, Inc., and/or Baptist Health Care Corporation, and/or Baptist Medical Group, LLC; therefore, these entities will be held vicariously liable for the actions of their respective agents and/or apparent agents and/or servants and employees, Drs. Andrews, Warrell, and Hendawi. It will alternatively allege that at all times material to the subject incident, Dr. James Andrews was an owner and/or shareholder in the foregoing corporate entities, and that he is liable for the acts of himself and/or Drs. Warrell and/or Hendawi and/or Hickman on that basis. The lawsuit will also allege joint venture theories of liability between the Andrews and Baptist entities.

The proposed lawsuit will allege that at all times material to the subject incident, the anesthesiologist, Dr. Hickman M.D. (or Winchester, *see n.2*) was acting in the course and scope of employment with Paradigm Anesthesia, P.A., and/or The Andrews Institute and/or Andrews Institute Ambulatory Surgery Center, and/or Andrews Institute ASC, and/or Andrews Institute ASC, LLC, and/or Baptist Hospital, Inc., and/or Baptist Health Care Corporation, and/or Baptist Medical Group, LLC; therefore, these entities will be held vicariously liable for the actions of their respective agents and/or apparent agents and/or servants and employee(s) Dr. Gregory Hickman, M.D (or Winchester, *see above*.) It will alternatively allege that at all times material to the subject incident, Drs. Hickman and Andrews were owner(s) and/or shareholder(s) in the foregoing corporate entities, and that they are liable for the acts of themselves, each other (and/or Dr. Winchester) on that basis. With respect to anesthesia services, the proposed lawsuit will also allege a non-delegable duty on the part of the Andrews and Baptist entities, along with joint venture theories of liability.

The proposed lawsuit will allege that all times material to the subject incident, the physical therapists, Messrs. Hunter Stark and Anthony Inzillo, were acting in their respective course and scope of employment with Baptist Hospital, Inc. and/or Baptist Hospital, Inc d/b/a/ Gulf Breeze Hospital and/or Gulf Breeze Hospital and/or The Andrews Institute and/or Andrews Institute Ambulatory Surgery Center, and/or Andrews Institute ASC, and/or Andrews Institute ASC, LLC, and/or Andrews Institute Rehabilitation, LLC, and/or Baptist Hospital, Inc., and/or Baptist Health Care Corporation, and/or Baptist Medical Group, LLC; therefore, these entities will be held vicariously liable for the actions of their respective agents and/or apparent agents and/or servants and employees, Messrs. Stark and Inzillo. It will alternatively allege that at all times material to the subject incident, Dr. James Andrews was an owner and/or shareholder in the foregoing corporate entities, and that he is liable for the acts of himself and/or Messrs. Stark and Inzillo on that basis. The lawsuit will also allege joint venture theories of liability between the Andrews and Baptist entities.

The proposed lawsuit will be presenting claims for all recoverable economic and non-economic damages including but not limited to: impaired future earning capacity; pain and suffering, and all medical damages as provided under the Florida Statutes on behalf of Mr. Floyd and his two dependent children. Presently, and subject to change based on the presence of additional information, Mr. Floyd's future earning capacity, as supported by former NFL management with Super Bowl championship experience, is estimated at \$180,000,000.00. To the best of Mr. Floyd's recollection and knowledge, and pursuant to Florida Statute 766.106(2)(a), the following healthcare treaters provided medical care to Mr. Floyd in the two year period preceding this incident:

- Dr. Frank Cordasco (Orthopedic Sports Medicine Surgeon) Hospital for Special Surgery, New York;
- Dr. James Andrews (Defendant);
- Dr. Joshua Hackel, (Non-Surgical Sports Medicine) Andrews Institute;
- Dr. Chris Larson, (Orthopedic Sports Medicine Surgeon) Mayo Clinic / Minnesota Vikings;
- Minnesota Vikings Training and Rehabilitation Staff (Brian Sugarman, Thomas Hunkele, Robert Roche, Albert Padilla);
- Athletix Rehab and Recovery (Sharif Tabeh, DPT);
- Dr. Gregory Lervick (Radiologist);
- Dr. Matthew Pollema (Radiologist);
- Dr. Hollis Fritz (Radiologist); and
- Dr. David Olson (Family Medicine).

It is possible that Mr. Floyd does not recall all of his healthcare providers. Generally with NFL players, their exhaustive records are uploaded onto an Electronic Medical Records system (an "EMR.") However, if by reviewing the medical records or by any means, you believe that Mr. Floyd may have been treated by other providers not listed, please bring those individuals to our attention. We will be happy to respond to the inquiry.

Enclosed, with this notice of intent to initiate litigation letter are the following medical records, which were reviewed by the above-mentioned Medical Experts in formulating their medical expert opinions on this matter:

- NFL EMR Records (believed to be comprehensive)
- Records Produced by Andrews, Paradigm, and Baptist Entities, and specific providers
- Chart Note, Dr. Matt Provencher, April 28, 2018

Pursuant to Florida Statutes 627.4137, please provide the undersigned with the following professional liability insurance information within the next thirty (30) days:

RE: Notice of Intent to Initiate Litigation

- A. Name of professional liability provider;
- B. Name of each insured;
- C. Limits of liability coverage;
- D. Statement of any policy or coverage defense which has been asserted by your insurance at the time of this claim; and
- E. Copy of your insurance policy/ policies. (The entire insurance policy; not just the Declaration Page.)

Enclosed, please find the Pre-suit Request for Discoverable Information, Presuit Request for Production and Presuit Contention Interrogatories which must be completed by you and returned to the undersigned within the **next twenty (20) days.**

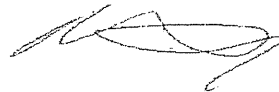
Pursuant to statutory notice obligations as designated in Florida Statute 766.1065(3), enclosed is an executed authorization for release of protected health information.

Thank you for your attention to this matter.

Very truly yours,



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BRS/brs

Enclosures: Pre-suit Request for Discoverable Information;
Pre-suit Request for Production;
Pre-suit Contention Interrogatories;
Medical Records;
Medical Authorization required by Florida Statute 766.1065;
Verified Medical Expert Opinion Reports;
Curriculum Vitae of Byron King, M.D.;
Curriculum Vitae of Richard Novak, M.D.; and
Curriculum Vitae of Martin Huegel

Exhibit B

